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Left Libertarianism and Private Discrimination

PETER VALLENTYNE*

TABLE OF CONTENTS

I.	INTRODUCTION	981
II.	PRIVATE DISCRIMINATION	982
III.	JUSTICE AND MORAL ASSESSMENT	983
IV.	LEFT LIBERTARIANISM.....	984
V.	A LEFT LIBERTARIAN ASSESSMENT OF PRIVATE DISCRIMINATION AND ASSOCIATED STATE RESPONSES.....	987
VI.	OBJECTIONS TO EQUAL OPPORTUNITY LEFT LIBERTARIANISM.....	989
VII.	CONCLUSION	992

I. INTRODUCTION

Left-libertarianism, like the more familiar right-libertarianism, holds that agents initially fully own themselves.¹ Unlike right-libertarianism, however, it views natural resources as belonging to everyone in some egalitarian manner. Left-libertarianism is thus a form of liberal egalitarianism in that it recognizes both liberty rights and equality rights. In this Article, I shall lay out the reasons why (1) left libertarianism holds that

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1. Peter Vallentyne, *Left-Libertarianism: A Primer*, in LEFT LIBERTARIANISM AND ITS CRITICS: THE CONTEMPORARY DEBATE 1 (Peter Vallentyne & Hillel Steiner eds., 2000).

(a) private discrimination is not intrinsically unjust and (b) it is intrinsically unjust for the state to prohibit private discrimination; and (2) that, nonetheless, a plausible version of left libertarianism holds that it is unjust for the state, and many private individuals, to refrain from taking steps to offset the negative effects of systematic private discrimination. The basic line is not new; it is simply that there is nothing unjust in principle with private discrimination, but there is something unjust about doing nothing to promote equal life prospects.

II. PRIVATE DISCRIMINATION

This discussion focuses primarily on *private* discrimination, which is discrimination by individuals as citizens, as opposed to *state* discrimination, which is discrimination by individuals in their capacities as government officials or in the content of laws and other state policies and procedures. There are strong grounds for morally condemning various kinds of state discrimination, but the focus of this Article is on private discrimination, which includes discrimination in hiring, market exchange, and private association.

What then, is discrimination? In its broadest sense, one discriminates against or in favor of a person when one treats that person less or more favorably because of some feature one believes the individual possesses. For example, I discriminate against the young man when I help the elderly lady with her groceries, but I do not help him. No one thinks that discrimination in this broad sense is intrinsically morally problematic. Indeed, no one thinks that it is always morally *better* to refrain from such discrimination. Discrimination need not be problematic when its effects are minor (for example, when I refuse to shake hands on February 28 with anyone born on that day), when the person is suitably responsible for having a feature (being a murderer), or where the discrimination is based on the best available statistical predictors.²

Because this Article argues that discrimination is not intrinsically unjust, it will, for purposes of simplicity, focus only on the most despicable kind of discrimination—invidious discrimination. Invidious discrimination against an individual is here understood as the treatment of an individual less favorably because of some feature one believes the individual to possess, where (1) the person is not morally or prudentially responsible for having the feature in question; and (2) the treatment is based on (a) a mistaken belief in the moral inferiority of those having the

2. For example, basing insurance rates on all known relevant factors, including the fact that young men are more likely than any other demographic to be involved in accidents.

feature, (b) a significantly mistaken empirical belief about people having the feature, or (c) hatred of those having the feature. For this discussion, I take standard cases of racism and sexism to be forms of invidious discrimination. This Article implicitly restricts its attention to *socially significant* discrimination—discrimination the net effect of which is significant and negative for many individuals having the feature in question.³

This Article also describes a plausible version of left libertarianism and shows that it holds (1) invidious discrimination is not intrinsically unjust; (2) that it is intrinsically unjust for the state to prohibit invidious discrimination as such; and (3) nonetheless, the state, on behalf of its citizens, has a duty of justice to eliminate or reduce the negative effects of such discrimination.

III. JUSTICE AND MORAL ASSESSMENT

Actions can be assessed from many different normative perspectives, justice being only one. Here, I shall comment on a few of such perspectives with respect to invidious discrimination.

One perspective is that of *personal ideals*. Although this typically involves some moral considerations, it is not based exclusively on such considerations. For example, my personal ideals attach great importance to musical achievements, but not much importance to athletic achievements. I do not, however, view musical achievements as morally more important than athletic achievements, nor do I view having no musical achievements as a moral defect. At the level of personal ideals, I of course find invidious discrimination despicable, at least in those cases where the discrimination is based on hatred or unreasonable, false beliefs. I would not be friends with anyone who engages in such discrimination. This, however, does not establish that there is anything *morally* problematic with invidious discrimination.

3. For useful discussions of discrimination, see generally Larry Alexander, *What Makes Wrongful Discrimination Wrong? Biases, Preferences, Stereotypes, and Proxies*, 141 U. PA. L. REV. 149 (1992); Richard J. Arneson, *Against Rawlsian Equality of Opportunity*, 93 PHIL. STUD. 77 (1999); Richard J. Arneson, *Disability, Discrimination, and Priority*, in AMERICANS WITH DISABILITIES: EXPLORING IMPLICATIONS OF THE LAW FOR INDIVIDUALS AND INSTITUTIONS 18 (Leslie Pickering Francis & Anita Silvers eds., 2000); MATT CAVANAGH, AGAINST EQUALITY OF OPPORTUNITY 153-207 (2002); JAN NARVESON, *Have We a Right to Nondiscrimination?*, reprinted in RESPECTING PERSONS IN THEORY AND PRACTICE: ESSAYS ON MORAL AND POLITICAL PHILOSOPHY 203 (2002); Peter Singer, *Is Racial Discrimination Arbitrary?*, 8 PHIL. Q. OF ISRAEL 185 (1978).

Another perspective is that of moral ideals, understood to be what is morally desirable or good. I have some general qualms about how much content the notion of moral goodness has, but if I set those aside, I fully agree that it is *morally desirable* not to engage in invidious discrimination. That, however, leaves open whether it is morally *wrong* to do so. Not everything that is morally desirable need be morally obligatory and thus wrong not to do. For example, it is often morally desirable to give away most of one's wealth to help feed the starving, but it may not be morally wrong not to do so.⁴

Another perspective is that of *moral permissibility*. Here, we must distinguish between two subperspectives: interpersonal morality and impersonal morality. *Interpersonal morality* is concerned with assessing when an action *wrongs someone*, or violates a duty owed to that person. On the other hand, *impersonal morality* is concerned with *impersonal wrongs*, or actions that are wrong, but not in virtue of wronging anyone. An example of impersonal morality is destroying a rare cultural artifact that no one cares about. I would argue that there are no impersonal wrongs, but that is beyond the scope of the present paper. Instead, I will grant that if there are some impersonal wrongs, invidious discrimination may be among them. This is not much of a concession, since almost everyone who holds that invidious discrimination is wrong believes so because it wrongs the victim.

In the discussion that follows, I focus exclusively on interpersonal morality, or wrongs to individuals, and I shall use the term *justice* to designate that which is interpersonally permissible—that which wrongs no one. Justice in this sense is concerned with what duties we owe each other. Admittedly, *justice* is confusedly used in many other senses, but I will use it stipulatively in this sense. I shall also describe a plausible version of left libertarianism and show that it holds (1) that invidious discrimination is not intrinsically unjust; (2) that it is intrinsically unjust for the state to prohibit invidious discrimination as such; and (3) nonetheless, the state, on behalf of its citizens, has a duty of justice to eliminate or reduce the negative effects of such discrimination.

IV. LEFT LIBERTARIANISM

Libertarianism holds that agents initially *fully own themselves*.⁵ Agents are full *self-owners* in that they own themselves in precisely the same way that they can fully own inanimate objects. Stated differently,

4. Of course, maximizing consequentialists will deny this. Here I merely mean to set up the issue in a general way, independent of any particular moral view.

5. Vallentyne, *supra* note 1, at 1-5.

full self-owners own themselves in the same way that a full chattel-slave-owner owns a slave. Throughout the Article, we are concerned with moral ownership and not legal ownership. In the days when slavery was legal, those who were legal slaves were moral self-owners because they had the same moral rights over themselves as everyone else.

Full self-ownership consists of full private ownership of one's person. Full private ownership of an entity consists of a full set of the following ownership rights: (1) *control rights* over the use of the entity (liberty rights to use it and claim rights against others using it); (2) *rights to compensation* if someone uses the entity without one's permission; (3) *enforcement rights* (rights to use force to prevent the violation of these rights or to extract compensation owed for past violation); (4) *immunities against the non-consensual loss* of these rights; and (5) *rights to transfer* any of these rights to others (powers of sale, rental, gift, or loan).⁶

All forms of libertarianism endorse full self-ownership. They differ with respect to the liberties persons have to use, or the moral powers they have to acquire, ownership of *natural resources*. Natural resources are all the resources in the world, in their unimproved form, that were not created by any non-divine agent. These include space, land, air, and minerals in their original unimproved state. The most well-known versions of libertarianism are *right-libertarian* theories, which hold that agents have a very strong moral power to acquire full private ownership of unowned things. *Left-libertarians*, by contrast, hold that natural resources (such as space, land, minerals, air, and water) belong to everyone in some egalitarian manner and thus cannot be privately appropriated without their consent or significant compensatory payment to them.⁷

There are many different versions of left libertarianism, but this Article focuses on two: the equal share view and the equal opportunity for well-being view. Like right-libertarianism, each view holds that individuals have the moral power to appropriate unowned natural resources. Unlike right-libertarianism, however, both hold that ownership

6. *See id.*

7. For more on left libertarianism, see generally THE ORIGINS OF LEFT-LIBERTARIANISM (Peter Vallentyne & Hillel Steiner eds., 2000). For a critical assessment of left libertarianism, see Barbara H. Fried, *Left-Libertarianism: A Review Essay*, 32 PHIL. & PUB. AFF. 66 (2004), and Peter Vallentyne et al., *Why Left-Libertarianism Is Not Incoherent, Indeterminate, or Irrelevant: A Reply to Fried*, 33 PHIL. & PUB. AFF. 201 (2005).

of natural resources is always conditional upon paying rent based on the competitive value, or supply and demand, of the rights claimed over those resources. Strictly speaking, both views deny that individuals can *fully* own natural resources, because their rights over them are always conditional on the payment of the competitive rent. As long as the rent payment is made, however, individuals may have all the other rights of full ownership.⁸

The two versions of left libertarianism that this Article considers differ with respect to their view on how the rent fund is to be allocated. The *equal share view* holds that everyone has a right to an equal share of the value of natural resources and thus a right to an equal share of the rent fund.⁹ The *equal opportunity for well-being view* holds that everyone has a right to whatever share of the value of natural resources—and hence of the rent fund—provides them with an equal opportunity for well-being.¹⁰ Under this view, the rent fund may be divided up unequally, with more going to those who suffer from unchosen disadvantages in their genetic endowments, childhood environments, and so on.¹¹

According to equal opportunity left libertarianism, each individual has a duty to pay competitive rent on the rights over natural resources that she claims.¹² Moreover, the rent must be spent so as to efficiently promote equality of opportunity for well-being. For simplicity, this Article assumes that the rental payment is paid to the state in the form of a tax, and that the state then uses the funds to promote equality of opportunity. If there is no state, or if the state would not distribute the funds appropriately, then the individual has a duty to distribute them directly.

Obviously, left libertarianism, like other theories of justice, is a highly controversial view, but this Article does not attempt to defend it. Moreover, I shall simply assume, as I believe, that the equal opportunity for well-being view is a plausible one on which I shall focus my attention. My goal is thus quite limited: to draw out the implications of equal opportunity left libertarianism for the justness of invidious discrimination and state responses thereto.

8. See Vallentyne, *supra* note 1, at 5-11.

9. See, e.g., HILLEL STEINER, *AN ESSAY ON RIGHTS* (1994).

10. See, e.g., MICHAEL OTSUKA, *LIBERTARIANISM WITHOUT INEQUALITY* (2003). Though the version that I invoke here differs in some ways from Otsuka's view, the differences are not essential for present purposes.

11. For simplicity, I ignore the difference between equality of opportunity for well-being, which is not sensitive to later brute luck, and equality of brute luck well-being. See generally, Peter Vallentyne, *Brute Luck, Option Luck, and Equality of Initial Opportunities*, 112 *ETHICS* 529 (2002).

12. See Vallentyne, *supra* note 1, at 5-11.

V. A LEFT LIBERTARIAN ASSESSMENT OF PRIVATE DISCRIMINATION
AND ASSOCIATED STATE RESPONSES

I shall first argue that equal opportunity left libertarianism *does not* view invidious discrimination as intrinsically unjust. I shall then argue that it views state prohibition of invidious discrimination as intrinsically unjust. Finally, I shall argue that equal opportunity left libertarianism holds that individuals, or the state on their behalf, often have a duty of justice to offset the negative effects of invidious discrimination by others.

An action is just if and only if it wrongs no one, that is, if and only if it does not violate an individual's rights, where rights are broadly construed to correspond to duties owed to individuals. From the perspective of equal opportunity left libertarianism, we thus need to ask whether invidious discrimination violates the victim's rights of self-ownership, her rights of ownership of artifacts or natural resources, or her limited right, based on amount of rent owed for natural resources, to an equal opportunity for well-being.¹³

Invidious discrimination need not violate the libertarian or moral property rights of individuals. The racist who refuses to befriend, hire, work for, buy from, or sell to the black person does not violate any of her property rights. In addition, invidious discrimination need not violate the victim's right to an equal opportunity for a good life. A man-hating bigot does not violate anyone's right to an equal opportunity for a good life when she invidiously discriminates against the man who is above average in his opportunities for a good life—rich, handsome, smart, happy, accomplished, loved by friends and family, and so on. Moreover, even invidious discrimination against a person with significantly below average life prospects is not always unjust. One may indeed have a duty of justice to help that person, but it need not take the form of refraining from invidious discrimination. That duty can be met, for example, by making an appropriate cash payment, or by providing other sorts of aid.

Thus, according to equal opportunity left libertarianism, invidious discrimination is not intrinsically unjust. Of course, it is often and

13. Of course, invidious discrimination *can* violate these left libertarian rights—as when someone murders on the basis of invidious discrimination. Our question is, however, whether invidious discrimination is *intrinsically* unjust, that is, whether it *always* violates the victim's rights.

probably typically unjust. Much invidious discrimination involves personal violence, property damage, or disadvantaging without compensation those who have less than an average opportunity for a good life. The crucial point is that what makes such invidious discrimination unjust is the violation of property rights or of the limited right to an equal opportunity for a good life. According to equal opportunity left libertarianism, it is not invidious discrimination as such that is unjust.

Moreover, equal opportunity left libertarianism judges it unjust for the state to prohibit, or for others to forcibly prevent, invidious discrimination—except, of course, with the consent of those whose liberty is restricted. The use of force against a person to stop her from engaging in an activity that does not violate anyone's rights violates her left libertarian rights and is unjust. For example, it is unjust for the state to stop me from playing my piano quietly in the privacy of my home. Likewise, it is unjust to use force to punish or extract payment for past actions that did not violate anyone's rights. Here left libertarianism takes a different position from standard versions of equality of opportunity egalitarianism.¹⁴ These unconstrained versions of egalitarianism agree that invidious discrimination is not intrinsically unjust, but they also hold that state prohibition of invidious discrimination is not intrinsically unjust. If the consequences of the prohibition suitably promote equality of life prospects, these versions of egalitarianism will judge the prohibition just. Equal opportunity left libertarianism, however, holds that there are certain constraints—the libertarian rights—on how equality may permissibly be promoted.¹⁵ Just as equal opportunity left libertarianism judges it unjust to promote equality by forcibly taking someone's kidney for another's benefit, it also judges it unjust to forcibly prevent someone from engaging in activities that do not violate anyone's rights.

Although it is unjust for the state to prohibit all invidious discrimination, it is also unjust for the state, and private individuals, to ignore the often systematic and very significant negative effects of invidious discrimination. Such discrimination is a major source of inequality in life prospects, and the state, on behalf of the citizens, has a duty of justice to promote equality of opportunity for a good life to the extent feasible with the natural resource rent fund. All else being equal, this requires giving extra resources, such as money, education, or other opportunities to those who have suffered from invidious discrimination. Of course, there are other sources of poor life prospects, such as genetic endowments, financial endowments from gifts and bequests, childhood environment, and so on.

14. Equality of opportunity egalitarianism does not recognize any basic libertarian property rights.

15. See Vallentyne, *supra* note 1, at 5-11.

Those who suffer from invidious discrimination, but benefit from other brute luck advantages, may already have above average life prospects and thus may be owed no help.

Finally, the left libertarian duty to promote equality of opportunity for a good life is a duty to promote *long-run* equality and to do so *efficiently* via the rent fund. It does not focus solely on present or immediate inequalities of opportunities; it is also concerned with reducing *future* inequalities. Thus, where it is an efficient way of promoting long-run equality, as I believe it typically will be, the state has a duty of justice to use education and incentives to reduce future invidious discrimination.

It should be noted, however, that equal opportunity left libertarianism recognizes only a *limited* duty to promote equality of opportunity—one based on the amount of rent that one owes for ownership of natural resources. It thus allows that justice may not require perfect equality. In particular, it does not guarantee that those who suffer the negative effects of invidious discrimination will be fully compensated, nor that the state will minimize future invidious discrimination. Those who favor a stronger equality requirement, for example, maximizing egalitarians, will of course find this feature objectionable. The issue here concerns how demanding the requirements of justice are, for example, how much freedom they leave us to pursue our own projects. I would argue that the demands of equality are strong, but not all encompassing in the sense that there is some kind of limitation on the duty to promote equality. However, it is beyond the scope of this paper to undertake this defense or to defend the specific left libertarian limitation that I have invoked. My goal is simply to work on the implications of this view for invidious discrimination.

VI. OBJECTIONS TO EQUAL OPPORTUNITY LEFT LIBERTARIANISM

Obviously, there are many aspects of equal opportunity left libertarianism that may be challenged. One could challenge the libertarian claim that individuals have property rights in themselves and in external things that ensure the injustice of state prohibitions of invidious discrimination. One could also challenge the egalitarian claim that individuals, and the state on their behalf, have a duty to compensate and reduce future instances of invidious discrimination that disadvantage those with less than average life prospects. This discussion, however, is limited to

addressing challenges directly relevant to the claim that invidious discrimination is not intrinsically unjust.¹⁶ The most important of such challenges is the claim that individuals have rights that (1) are not recognized by equal opportunity left libertarianism; and (2) are always violated by invidious discrimination. If this argument is correct, then invidious discrimination is intrinsically unjust.

One might claim that individuals have a right not to be treated on the basis of characteristics for which they are not responsible. This view is clearly mistaken and entails that it is unjust to make choices in romantic or sexual partners on the basis of the sex of individuals. Alternatively, one might claim that individuals have a right to be treated on the basis of their earned desert. This too cannot be right. I may be a far more deserving person than Slick, and I may even be far more deserving than he of Agatha's love and companionship because of my feeling for and attentions to her. That, however, does not give me a *right* to her love or companionship. I am not wronged if she gives me no attention whatsoever.¹⁷

Of course, it may be objected that the above examples fail to take into account that invidious discrimination is often systematic in society with profound effects on life prospects. It is one thing for one person to be denied the love of another; it is quite another for a black person to be systematically denied jobs, housing, and so on. With this, I fully agree. The relevant point, however, is that some individuals are suffering significant disadvantages in life prospects. This is what is problematic. If invidious discrimination were widespread and systematic but resulted in equal life prospects, for example, everyone has otherwise equal life prospects and everyone is equally subject to the effects of invidious discrimination, it would not be as disturbing.¹⁸

There is, of course, a strand of egalitarian thinking that challenges this emphasis on overall life prospects. It claims that (1) it is only certain *basic* goods that must be equalized; (2) these basic goods include the good of full recognition of one's moral worth or status; and (3) for these basic goods, *each* good must be equally present—it is not sufficient for the total package of such goods to be equal. Here, I shall not worry about what determines whether a good is basic, although this is an important problem, and I shall simply assume that full recognition of one's moral status is such a good.

16. For criticisms of both libertarianism and egalitarianism on the topic of discrimination, see CAVANAGH, *supra* note 3.

17. For further criticism of these views, see *id.*

18. Of course, it might still typically be problematic for efficiency reasons, since false beliefs and hatred preclude various forms of cooperation. Thus, there may typically be an egalitarian duty to reduce invidious discrimination through education, incentives, and other admissible means.

The claim that only basic goods need to be equalized is highly dubious. Even if certain goods are basic and more important than other goods, there is little reason to exclude the others from the purview of the egalitarian requirement. At least sometimes, increasing enough non-basic goods is more important for an individual than increasing some basic good. Still, let us grant this assumption for the sake of argument.¹⁹

Suppose, then, that only basic goods need be equalized and that full recognition of one's moral status is a basic good. This is still not sufficient to judge invidious discrimination unjust.²⁰ Thus, invidious discrimination, as defined in this Article, need not involve failure to fully recognize the moral status of the victim. One can invidiously discriminate on the basis of a false empirical belief or hatred while fully recognizing the moral status of the victim. One could, for example, fully believe that women have equal moral status with men, but falsely believe that they are incapable of being effective CEOs.

Let us therefore restrict our attention to *disrespectful discrimination*, which is here understood as invidious discrimination based on a mistaken belief in the moral inferiority of those having the relevant feature and thus a failure to fully recognize their moral status.²¹ Even if equality is only concerned with basic goods, of which full recognition of moral status is one, it does not follow that disrespectful discrimination is intrinsically unjust. After all, some other basic goods might offset the negative effects of the discrimination. The victim of disrespectful discrimination, that is, need not be below average with respect to the overall value of basic goods. He might be rich, handsome, loved, happy, and so on.

In response to this view, a basic goods egalitarian might reply that *each* basic good must be equalized. It is not enough to equalize the overall package of basic goods. It is quite mysterious, however, why one should suppose this. From the victim's perspective, basic goods

19. For discussion of related issues, see Peter Vallentyne, *Debate: Capabilities Versus Opportunities for Well-Being*, 13 J. POL. PHIL. 359 (2005).

20. Recall that invidious discrimination against a person consists of treating her less favorably because of some feature one believes her to have, where (1) the person is not morally or prudentially responsible for possessing the feature in question; and (2) the treatment is based on (a) a mistaken belief in the moral inferiority of those having the feature, (b) a significantly mistaken empirical belief about people having the feature, or (c) hatred of those having the feature.

21. For a defense of the wrongness of disrespectful (or contemptuous) discrimination, see CAVANAGH, *supra* note 3, at 153-207.

can, at least normally, be traded off. For example, most people would prefer to experience a small increase in disrespectful discrimination conjoined with a major increase in other basic goods, such as health, to no change in either. Even if one focuses only on basic goods, it is the value to the individual of the *overall* bundle of basic goods that matters. Individual basic goods should not be fetishized.

Even if we grant that each basic good must be equalized, it still does not follow that disrespectful discrimination is intrinsically unjust. Under some rare circumstances, engaging in disrespectful discrimination may be the most effective means of reducing the future harmful effects of disrespectful discrimination, or other basic goods. For example, it is possible that the misogynist's disrespectful discrimination against a racist white woman, by refusing her a job, for example, will sometimes make her less inclined to disrespectfully discriminate against African-Americans. The intrinsic injustice of disrespectful discrimination follows (not surprisingly) only if there is a deontological restriction against avoidably failing to equalize each basic good. Whether there is any such restriction is, of course, the crux of the matter. I shall not attempt to systematically argue against this view. I merely note that it seems quite implausible. Our concern should be with giving people equal life prospects. We should be concerned with the net effect of *all* goods—and not rule out any non-basic goods or insist on equalizing each good. We should take a consequentialist perspective that favors promoting long-run equality of life prospects and not a deontological perspective that requires us to provide equality now independently of later effects, or so I would argue.²²

In sum, I have argued that individuals do not have a right not to be discriminated against on the basis of characteristics for which they are not responsible, or a right to be treated on the basis of their desert. I have also argued that, even if a right to equality of each basic good (on some criterion) exists and full recognition of one's moral status is a basic good, it does not follow that invidious, or even disrespectful, discrimination is unjust. Of course, there may be other rights that establish the injustice of invidious discrimination, but I know of no promising ones. I therefore provisionally conclude that the equal opportunity left libertarian account of private discrimination is correct.

VII. CONCLUSION

At the level of personal ideals, I find invidious discrimination despicable and deeply troubling. At the level of moral ideals, setting

22. For related discussion, see Vallentyne, *supra* note 19.

aside some general concerns I have about how much content there is to the notion of moral goodness, it is morally undesirable. If there are any impersonal wrongs (and I deny that there are any), invidious discrimination may be among them. My focus, however, has been on the justice of invidious discrimination, that is, on the question of whether it wrongs anyone.

I have assumed, without defense, equal opportunity left libertarianism and addressed its implications for invidious discrimination. Like consequentialist egalitarianism, it sees no intrinsic injustice in invidious discrimination. Such discrimination often deprives individuals of their fair share of life prospects, and when it does, it is unjust. It is not, however, unjust when it does not. Like right-libertarianism, but unlike consequentialist egalitarianism, equal opportunity left libertarianism judges it unjust to forcibly prevent, punish, or extract compensation from a person who is committing no injustice. It thus judges it unjust for the state to prohibit invidious discrimination. Finally, like consequentialist egalitarianism, but unlike right-libertarianism, equal opportunity left libertarianism judges that individuals—and on their behalf, the state—have a duty of justice to promote equality of opportunity. Very often, but not always, this will take the form of compensating victims of invidious discrimination or taking steps through education and incentives to reduce its occurrence.

Obviously, the ultimate importance of these observations depends on the plausibility of equal opportunity left libertarianism. What I have done here is simply help clarify the implications of this position while offering a limited defense of its implications on the topic of private discrimination.

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